

**CALIFORNIA CODE OF REGULATIONS
TITLE 3. FOOD AND AGRICULTURE
DIVISION 4. PLANT INDUSTRY
CHAPTER 2. FIELD CROPS
SUBCHAPTER 2. COMMERCIAL FEED
ARTICLE 11. INSPECTION TAX AND PLANT LICENSES**

INITIAL STATEMENT OF REASONS

DESCRIPTION OF THE PUBLIC PROBLEM, ADMINISTRATION REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS

Section 15053 of the California Food and Agricultural Code declares that the specific fee be set by the Secretary upon recommendation of the Feed Inspection Advisory Board. Revenues generated from license fees shall be used to replenish feed inspection program reserves to a minimum of 25 percent of program expenditures after which some of these fees shall be used to reduce the feed tonnage taxes upon recommendation of the Feed Inspection Advisory Board.

The proposed change in the California Code of Regulations sets the commercial feed licensing fee as recommended by the Feed Inspection Advisory Board.

SPECIFIC PURPOSE AND FACTUAL BASIS

Existing regulation Section 2751(a) of the California Code of Regulations exempts retail stores who only sell packaged feed labeled by licensed manufacturers from the licensing requirement.

The specific purpose of amending Section 2751, subsection (b) of the California Code of Regulations is to set the annual commercial feed license at \$300 effective July 1, 2008.

FACTUAL BASIS FOR THE DEPARTMENT DETERMINING THE NEED FOR THE AMENDMENT OF THESE REGULATIONS:

Section 15051(a) of the Food and Agricultural Code requires that any person who manufactures, distributes, sells, or stores commercial feed shall obtain a license from the California Department of Food and Agriculture. Section 2571(a) of the California Code of Regulations exempts any person who is engaged in retail sales of feed from the licensing requirement.

Section 15053(a) of the Food and Agricultural Code gives the Secretary the authority to set the annual commercial feed license fee between \$100 and \$600 with recommendation from the Feed Inspection Advisory Board.

Section 15053(b) declares that revenues generated from the license fees shall be used to replenish the feed inspection program reserves to a minimum of 25% of the program expenditures, after which the Feed Inspection Advisory Board can recommend that the revenue shall be used to reduce the feed inspection tonnage tax.

Current funding for the feed inspection program is drawn from both the license fees and the feed tonnage tax. The consolidation of the feed industry has created a discrepancy between the revenues raised from the licensing fees and the tonnage tax. Because many licensees do not sell feed, act only as middlemen, or do not sell directly to consumer-buyers, they do not pay tonnage tax. It is estimated that of the 1800 feed licenses in this state, about 21 pay for nearly 65% of the program. The changes to the license fee structure are an attempt to remedy the disproportionate fiscal responsibility and share the cost of the feed inspection program to reflect industry activities.

The Feed Inspection Advisory Board voted to recommend that the Secretary set the annual commercial feed license fee at \$300. The Department proposes to amend Section 2751 of the California Code of Regulations by adding subsection (b), thereby setting the annual license fee at \$300, effective July 1, 2008. The intent of Section 15053 of the Food and Agricultural Code is to provide sufficient funds to support program operations; broaden the responsibility for support of the inspection program; and to remain revenue neutral once the reserves surpass 25% of the operating costs.

DOCUMENTS RELIED UPON

- Minutes from the February 15, 2007 Feed Inspection Advisory Board Meeting
- Letter of support from the California Feed and Grain Association

ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which these regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.

ESTIMATED COSTS OR SAVINGS TO PUBLIC AGENCIES OR AFFECTED PRIVATE INDIVIDUALS OR ENTITIES

The Department has initially determined that no savings or increased costs to any state agency, no costs under "Part 7 (commencing with Section 17500) of Division 4" of the Government Code to local agencies or school districts requiring reimbursement, no other non-discretionary costs or savings imposed on local agencies, and no costs or savings in federal funding to the State will result from these proposed regulations. The Department has also determined that these proposed regulations do not impose a mandate on local agencies or school districts.

SMALL BUSINESS IMPACT STATEMENT

The Department has initially determined that the proposed change in the regulation would result in no added costs to small businesses affected because the proposed license fee does not exceed statutory limits, and the slight increase will be offset by a decrease in the inspection tonnage tax.

ECONOMIC IMPACT ON AFFECTED BUSINESSES

The Department has initially determined that the proposed regulations would result in no significant costs to private businesses or individuals affected by these proposed regulations. This is based on the fact stated in the SMALL BUSINESSES IMPACT STATEMENT.”